

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE:

PETER D. HACKINEN,

Debtor.

Case No. 09-17051

Adversary No.

COMPLAINT TO STRIP OFF
JUNIOR LIEN OF FIRST HORIZON
NATIONAL CORPORATION

PETER D. HACKINEN,

Plaintiff,

v.

FIRST HORIZON NATIONAL
CORPORATION,

Defendant.

Debtor-Plaintiff Peter D. Hackinen ("Debtor"), by and through his attorneys, Christina Latta Henry and Seattle Debt Law LLC, allege as follows:

I. JURISDICTION AND VENUE

1.1 This adversary proceeding is brought pursuant to Federal Rule of Bankruptcy Procedure 7001 and 11 U.S.C. §§ 1322(b)(2).

COMPLAINT TO STRIP OFF JUNIOR LIEN OF FIRST
HORIZON NATIONAL CORPORATION - 1

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1 1.2 This Court has subject matter jurisdiction over this adversary proceeding under 28
2 U.S.C. §§ 157 and 1334.

3 1.3 Venue is proper in this district pursuant to 28 U.S.C. § 1409.

4 1.4 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

5
6 **II. PARTIES**

7 2.1 Debtor is a Washington State resident who currently resides in the city of Seattle
8 in King County, Washington.

9 2.2 Defendant First Horizon National Corporation is a Tennessee corporation
10 headquartered in Memphis, Tennessee.

11
12 **III. APPLICABLE LAW**

13 3.1 The substantive rights of the parties in this proceeding are governed by Title 11 of
14 the U.S. Code (hereinafter “Bankruptcy Code”), the laws of the State of Washington to the extent
15 that law is not displaced by the Bankruptcy Code, and other Federal law.

16 **IV. FACTS**

17 4.1 Debtor filed a voluntary Chapter 13 petition under Title 11 of the U.S.
18 Bankruptcy Code on July 16, 2009.

19 4.2 Debtor owns a residence located at 624 N. 138th St, Seattle, WA 98133 (“the
20 Residence”).

21 4.3 Debtor’s bankruptcy schedules list two claims putatively secured by the
22 Residence. The approximate amounts of these liens, in order of priority, are as follows:
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24

| | |
|---------------------------------|-----------|
| First Horizon Home Loans, #7043 | \$272,991 |
| First Horizon Home Loans, #0274 | \$30,576 |

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27

1
2 4.4 Debtor' bankruptcy schedules filed on August 3, 2009, list the fair market value
3 of the Residence at \$270,000.

4 **V. COUNT I: VALIDITY OF DEFENDANTS' LIENS UNDER THE BANKRUPTCY**
5 **CODE**

6 5.1 All above paragraphs relevant hereto are incorporated herein by reference.

7 5.2 Debtor's Residence is valued at \$270,000. The senior lien on the Residence is
8 approximately \$272,000.

9 5.3 Defendant's putatively secured claim, loan #0274, is wholly unsecured because
10 the value of his Residence is less than the claimed amount of the senior lien against the
11 residence.

12 5.4 Defendant's wholly unsecured claim is not allowed secured claims under 11
13 U.S.C. § 506(a).

14 5.5 Defendant's lien is void under 11 U.S.C. § 506(d) and may be stripped off under
15 1322(b)(2).

16 5.6 Debtor may treat Defendant's claim as general unsecured claims in his Chapter 13
17 plan.

18 **VI. PRAYER FOR RELIEF**

19 WHEREFORE, the Debtor respectfully prays that this Court enter a judgment declaring
20 the following:

21 6.1 The junior lien of First Horizon Home Loans, loan #0274, is wholly unsecured
22 based on the value of Debtor' Residence and the amount owing on the senior lien held by
23 First Horizon Home Loans, #7043;

24 6.2 Defendant's lien, for loan #0274, is therefore stripped off; and
25
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27

6.3 Debtor may treat the claim of Defendant First Horizon Home Loans, loan #0274, as a general unsecured claim in their Chapter 13 plan.

DATED this 10th day of August, 2009.

SEATTLE DEBT LAW, LLC

By: /s/ Christina Latta Henry
Christina Latta Henry, WSBA #31273
Attorney for Debtor